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United States District Court
Northern District of California
San Francisco Division

12 ARTHUR MIELKE, No. C 04-05502 TEH
13 Plaintiff,

14 DECLARATION OF ARTHUR
15 MIELKE IN SUPPORT OF
MOTION TO REMAND CASE
TO SUPERIOR COURT

16 -v-

17 CONOCOPHILLIPS
COMPANY, SENTINEL
TRANSPORTATION LLC,
18 ABE CASTRO, MARILYN
SHAW, DAVE STANNARD,
19 DOES I-XX,

DATE OF HEARING: 5-9-05
TIME: 10 A.M.
CTRM: 12
JUDGE: HON. THELTON
HENDERSON

21 Defendants.

22 /

23 Arthur Mielke declares as follows:

24 1. Attached hereto as Exhibit 1 are true and correct
25 copies of two Complaint[s] of Discrimination under the
26 Provisions of the California Fair Employment and Housing Act
27 which I signed on September 20, 2004, which were filed with
28

1 the California Department of Fair Employment and Housing on
2 September 21, 2004, one against Sentinel Transportation LLC
3 and one against ConocoPhillips Company, along with Notice of
4 Case Closure notices (including right to sue) addressed to me
5 from the Department of Fair Employment and Housing dated
6 September 23, 2004 for each said complaint of discrimination,
7 along with a proof of service pertaining thereto for each said
8 complaint.

9 2. On or about August 12 or 13, 2004, I received
10 correspondence dated August 9, 2004, from Alison C. Pauly,
11 regional investigator for the U.S. Department of Labor,
12 Occupational Safety and Health Administration, pertaining to
13 that agency's investigation of an administrative complaint I
14 had filed with it pertaining to whistleblower/safety issues as
15 to ConocoPhillips Company and Sentinel Transportation LLC.
16 The letter indicated the agency was providing me with "your
17 file as provided by Sentinel Transportation." A true and
18 correct copy of the August 9, 2004 cover letter is attached
19 hereto as Exhibit 2.

20 3. Included with the "file" referred to in the August
21 9, 2004 cover letter was a copy of a document entitled
22 "Employee Selection and Hiring Worksheet" which had Dave
23 Stannard's signature on it, and which was signed October 16,
24 2003. Dave Stannard had been my immediate supervisor at the
25 Richmond terminal. A true and correct copy of the "Employee
26 Selection and Hiring Worksheet" document is attached hereto as
27 Exhibit 3.

1 4. On the "Employee Selection and Hiring Worksheet"
2 (Exhibit 3), on a 10-point scale (1 equals poor and 10 equals
3 outstanding), Stannard rated me as a "6" on "Disposition (Gets
4 along with fellow workers)", a "7" on "Attitude", a "7" on
5 "Productivity", a "7" on "Work Ethic", and gave me no rating
6 at all on "Safety". Also, on this same October 16, 2003
7 "Employee Selection and Hiring Worksheet", Stannard checked
8 the "No" box on the "Hiring Recommendation" line.

9 5. I did not know of the existence of this document
10 ("Employee Selection and Hiring Worksheet") or any of the
11 contents of it before I received a copy of it from Alison
12 Pauly in August 2004. I did not know Dave Stannard had made
13 any of the statements and representations about me which were
14 contained in the "Employee Selection and Hiring Worksheet",
15 prior to receiving a copy of the "Employee Selection and
16 Hiring Worksheet" from Alison Pauly in August 2004.

17 I declare under penalty of perjury under the laws of the
18 United States that the foregoing is true and correct, and that
19 this declaration was executed on April 3, 2005, at San
20 Francisco County, California, and that the statements
21 contained herein are true of my own personal knowledge, and if
22 called as a witness I could and would testify competently
23 thereto.

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25

/s/ Arthur Mielke

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Arthur Mielke, Declarant

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